

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 04-30208-KPN

BRADFORD C. COUNCILMAN,)
 Plaintiff,)
)
v.)
)
ALIBRIS, INC.,)
MICHAEL WARCHUT, and)
PETER KROTKOV,)
 Defendants.)

DEFENDANT KROTKOV'S MOTION TO DISMISS COMPLAINT

Defendant Peter Krotkov ("Krotkov") moves the Court to dismiss Counts 1-3 of the Complaint in the above-captioned case. The Complaint, which alleges (1) malicious prosecution, (2) abuse of process, and (3) intentional infliction of emotional distress by Krotkov, fails to state a claim upon which relief can be granted and should therefore be dismissed pursuant to Federal Rule of Civil procedure 12(b)(6). The grounds for this motion are set forth in the attached Memorandum in Support of Defendant Krotkov's Motion to Dismiss.

WHEREFORE, Defendant Krotkov respectfully requests that this Court dismiss Counts 1-3 of the Complaint as to Defendant Krotkov.

Respectfully submitted,
DEFENDANT PETER KROTKOV
By His Attorney,

Dated: February 4, 2005

/s/ C. Jeffrey Kinder
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